

(SEE REVERSE)

(PLACE AN *x* IN ONE BOX ONLY)

ORIGIN

- ☒ 1 Original Proceeding
 ☐ 2a. Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from (Specify District)
 ☐ 6 Multidistrict Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge Judgment
- ☐ 2b. Removed from State Court
 AND at least one party is a pro se litigant

(PLACE AN *x* IN ONE BOX ONLY)

BASIS OF JURISDICTION

- ☐ 1 U.S. PLAINTIFF
 ☐ 2 U.S. DEFENDANT
 ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY)
 ☐ 4 DIVERSITY

IF DIVERSITY, INDICATE
CITIZENSHIP BELOW.
(28 USC 1332, 1441)

CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [] []	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [] []	INCORPORATED <u>and</u> PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [] []
CITIZEN OF ANOTHER STATE	[] []	INCORPORATED <u>or</u> PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[] []	FOREIGN NATION	[] []

PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

SEE ATTACHED APPENDIX TO CIVIL COVERSHEET

DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Office of the Secretary
The Port Authority of New York and New Jersey
225 Park Avenue South
New York, NY 10003

DEFENDANT(S) ADDRESS UNKNOWN

REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☒ FOLEY SQUARE
(DO NOT check either box if this a PRISONER PETITION.)

DATE

SIGNATURE OF ATTORNEY OF RECORD

ADMITTED TO PRACTICE IN THIS DISTRICT

[] NO

[] YES (DATE ADMITTED Mo. _____ Yr. _____)

Attorney Bar Code #

RECEIPT #

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge _____ is so Designated.

J Michael McMahon, Clerk of Court by _____ Deputy Clerk, DATED _____

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

ACCARDI, FRANK)	
ADAMS, JENNIFER)	
AIBA, JOSEPH)	
ALMEYER, RICHARD)	
BARBARELLO, JAMIE)	Civil Action No.
BATES, REGINALD)	
BATISTA, PEDRO)	
BERGMAN, CHRISTOPHER)	
BISHOP, STEVEN)	
BOMENGO, THOMAS)	
BORELLI, ANTHONY)	
BRADY, GREGORY)	
BRELAND, ALFRED)	
BROWN, MICHAEL)	
BURNS, DONALD)	
BUTLER, STEPHEN)	
CALIA, ROBERT)	
CAPOZZI, KEVIN)	
CARRASCO, AIDA)	
CARRIGAN, JOSEPH)	
CASO, CONSTANCE)	
CHAMBLISS, RALPH)	
CHIERCHIO, PAUL)	
CHIN, STANLEY)	
COLEMAN, MARIELLA)	
COLLIS, JOHN)	
CONKLIN, DONALD)	
COOPER, ALFONSO)	
COTTRELL, KEVIN)	
CRIMARCO, FRANK)	
CUMMINGS, LAWRENCE)	
CURNYN, JOHN)	
DALTON, MICHAEL)	
DANCHUK, PETER)	
DANESE, ELIZABETH)	
DAVIS, WARREN)	
DELGADO, JOSEPH)	
DELGADO, WILLIAM)	
DEMELLO, MICHAEL)	
DESIO, FRANCES)	
DILENA, RAYMOND)	
DIPRIMO, DONATO)	

DORNER, GEORGE)
DUANE, MARTIN)
DUBELBEISS, EUGENE)
DURHAM, JOHN)
EARLEY, PATRICK)
EDWARDS, MICHAEL)
EIRAND, JAMES)
ESPINOZA, JORGE)
ESPOSITO, FRANK)
ESPOSITO, LUANNE)
FARFALLA, FRANK)
FARRELL, JOHN)
FEELEY, KEVIN)
FERRIGNO, JOHN)
FINNIE, WILLIAM)
FIREHOCK, DONALD)
FITZGERALD, JOHN)
FLEMING, THOMAS)
FLORIE, MICHAEL)
FLORKOWSKI, KEVIN)
FLYNN, JOSEPH)
FLYNN, JOHN)
FONG, MILTON)
FRANCIS, DANIEL)
FRANK, GLORIA)
FUSCO, ANTHONY)
GACHETT, ALEBERT)
GARCIA, JUAN)
GARLAND, RAYMOND)
GAUNT, MARK)
GAVIN, ALYSON)
GAYSON, JOHN)
GIARAMITA, FRANK)
GIGLIA, CHARLES)
GLAZER, SCOTT)
GOLDBERG, LAURENCE)
GONZALEZ, REINALDO)
GORMAN, JOHN)
GREENSTEIN, AARON)
GREFF, ROBERT)
GRIFFITH, GARY)
GRIGLIO, JAMES)
GRIMALDI, MICHAEL)
GROSSBARD, DAVID)
GROSSI, STEPHEN)
GUTCH, WILLIAM)

HADLEY-BAILEY, CYNTHIA)
HAMPDEN, JULIAN)
HARLEY, JAMES)
HARDY, NORMA)
HARRIS, CARLA)
HARRIS, NATHANIEL)
HEIDERSBENGEN, CARL)
HEIM, BARBARA)
HENNESSY, KELLYANN)
HENNESSY, MICHAEL)
HERING, THOMAS)
HERNANDEZ, PETER)
HERNANDEZ, RAMON)
HODGES, WARREN)
HOEY, THOMAS)
HOLLAND, RICHARD)
HORAN, SEAN)
HUBERT, FRANK)
JACOBS, FRANK)
JILES, ADELL)
JILLING, FRANK)
JOHNSON, PETER)
JOHNSON, VERNON)
JONES, KATHLEEN)
KEANE, SUSAN)
KEHOE, WILLIAM)
KEITH, RICHARD)
KENNEDY, THOMAS)
KING, CURTIS)
KING, JOSEPH)
KOEGEL, KURT)
KOHLMANN, KENNETH)
KOUMOUTSOS, LOUIE)
KOWANA, NICHOLAS)
LATIMER, GEORGE)
LEARY, EUGENE)
LEATHER, JOSEPH)
LECLAIRE, DAVID)
LEW, ALAN)
LICORISH, DARCY)
LIM, DAVID)
LINK, ALAN)
LIPARI, ROBERT)
LOMONACO, THOMAS)
LORENZ, GEORGE)
MACIOCIA, LEWIS)

MAHARAJ, DEWAN)
MANCUSO, RICHARD)
MANFREDI, RAYMOND)
MANGIERI, PATRIC)
MANIA, RICHARD)
MARESCA, JOHN)
MARIANO, JOHN)
MARRAZZO, ANTHONY)
MARTEN, THOMAS)
MASELLA, RICHARD)
MATHIESON, JOHN)
MATTIACE, JOHN)
MAY, ROBERT)
MAYS, LAWRENCE)
McCLAVE, JOHN)
MCDERMOTT, JAMES)
MCFADDEN, EDWARD)
MCHALE, THOMAS)
MCKEEVER, JOSPEH)
MCPAHON, DONALD)
MCNERNEY, PATRICK)
MESS, PAUL)
MILAN, SERGIO)
MORALES, RAUL)
MORAN, WILLIAM)
MORRIS, ANTHONY)
MUELLER, TIMOTHY)
MUNNELLY, RICHARD)
MURPHY, KEVIN)
NAFEY, RONALD)
NASTRO, LAURA)
NG, TERRY)
NOBLE, JOHN)
NYBRO, RAYMOND)
OBERHOFER, LAWRENCE)
O'DONNELL, JOHN)
OLAH, RICHARD)
O'NEILL, MARK)
PALERMO, MICHAEL)
PALERNO, MICHAEL)
PAUGH, RICHARD)
PEARSON, FRENCH)
PERDOMO, BORIS)
PETERS, SEAN)
PETRUZZIELLO, MARIO)
PICONE, WAYNE)

PINCKNEY, INDIA)
PIRO, SALVATORE)
POTEPA, MARK)
POULOS, STEVEN)
PREYER, WILLIAM)
PROSPERO, STEPHEN)
RAPP, EDWARD)
RAY, DANIEL)
REARDON, JOHN)
REILLY, JOHN)
RHEM, NADINA)
RIENZIE, JOHN)
RIVERA, SILFREDO)
ROBINS, KEVIN)
RODRIGUEZ, ALBERTO)
RODRIGUEZ, EDWIN)
ROMAN, MARK)
ROSS, WILLIAM)
ROSTRUP, GEORGE)
ROTOLO, STEVEN)
ROWAN, WILLIAM)
RUIZ, RICHARD)
RULLO, JOSEPH)
RUSSELL, SHAWN)
RYAN, PATRICK)
SANTIAGO, GEORGE)
SAVARESE, WILLIAM)
SCHIELS, WILLIAM)
SCHMIDT, ROBERT)
SCHULIZZI, PETER)
SEARANO, JOSEPH)
SELBY, CHERYL)
SERRANO, MICHELLE)
SIMONS, MICHAEL)
SIMS, DERRICK)
SMALLS, TIMOTHY)
SMITH, CORETTA)
SMITH, WILLIAM)
SNYDER, RONALD)
STITZ, JOSEPH)
STONE, ROBERT)
SULEWSKI, RONALD)
TINDALL, JULIAN)
TOHT, THOMAS)
TOOHEY, BRIAN)
TOTH, TIBOR)

TOURLOUKIS, GEORGE)
TYNER, LORENZO)
WARD, KEVIN)
WAY, STEPHEN)
WEBER, WILLIAM)
WEIR, JOHN)
WEST, NARICE)
WHITE, KENNETH)
WICKERS, STEPHEN)
WYKA, JAMES)
YUM, NICHOLAS)
ZACHOWSKI, ROBERT)
)
PLAINTIFFS,)
)
v.)
)
PORT AUTHORITY OF NEW)
YORK AND NEW JERSEY,)
)
DEFENDANT.)
)

COMPLAINT

INTRODUCTION

1. Plaintiffs, by and through their attorneys, Woodley & McGillivray, bring this action against defendant Port Authority of New York and New Jersey (hereinafter referred to as "Port Authority" or "defendant") and seek a declaratory judgment, back pay and other relief pursuant to 29 U.S.C. § 207, 29 U.S.C. § 216(b), and 28 U.S.C. § 1331 to remedy the defendant's willful and unlawful violations of federal law that are complained of herein.

PARTIES

2. Plaintiffs are and at all times material herein have been employed by defendant Port Authority in the position of police sergeant and/or detective

working within the Port Authority of New York and New Jersey Police Department.

3. Plaintiffs are identified in the caption of the Complaint and have given their written consent to be party plaintiffs in this action pursuant to 29 U.S.C. § 216(b). Such written consents are appended to this Complaint in the appendix. These written consent forms set forth each plaintiff's name and address.

4. Each of the plaintiffs in this action while employed by defendant in the position of sergeant and/or detective has been an "employee" within the meaning of the Fair Labor Standards Act, 29 U.S.C. Section 203(e)(1).

5. Defendant Port Authority is, among other things, a juridical entity amenable to suit under the FLSA in that it is, and was at all times material hereto, a public agency within the meaning of Section 3(x) of the FLSA, 29 U.S.C. § 203(x). The corporate headquarters of the Port Authority of New York and New Jersey is located at 225 Park Avenue South, New York, New York 10003. It is a public agency that operates and conducts its business within the State of New York, and within the geographic region of the Southern District of New York.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 29 U.S.C. § 216(b).

7. Venue is proper in this district pursuant to 28 U.S.C. § 1391.

FACTS

8. At all times material herein, the plaintiffs have been employed by the defendant Port Authority in the position of sergeant and/or detective.

9. At times material herein, some of the plaintiffs have been assigned by defendant to work on various task forces with other public agencies, but while doing so such plaintiffs remain employed by defendant and their compensation has been controlled by defendant.

10. At all times material herein, while working in the position of sergeant and/or detectives on behalf of defendant plaintiffs have worked in excess of 40 hours per week.

11. In addition to their other compensation, plaintiffs receive payments such as shift differentials, schedule deficiency, longevity pay, and/or working out-of-zone pay.

CLAIMS FOR RELIEF

12. During the times that plaintiffs have worked in excess of 40 hours per week, defendant has failed to provide plaintiffs with the rights and protections provided under the FLSA, including among other things overtime pay at the rate of one and one-half times their regular rates of pay for all hours plaintiffs have worked in excess of the hourly standards set forth under 29 U.S.C. § 207.

13. Section 207 of the FLSA, as well as the regulations of the U.S. Department of Labor, 29 CFR Part 778, *et seq.*, require that in the calculation of overtime pay due and owing under the FLSA, all forms of remuneration be included in the rate at which overtime is paid, with some limited exceptions set

forth under 29 U.S.C. § 207(e). Premium payments, such as shift differential, longevity payments, schedule deficiency and out-of-zone payments, and similar payments that are made in addition to employees' other compensation must be included in the rate at which overtime is paid and are not among the exceptions set forth under 29 U.S.C. § 207(e). With the exception of longevity pay, defendant has failed to include these premium payments in the regular rate of pay at which overtime pay is calculated for the plaintiffs, as required under the law.

14. By failing to compensate plaintiffs at the rate of one and one-half times the plaintiffs' regular rates of pay when plaintiffs have worked in excess of 40 hours a week, and by failing to include all of the plaintiffs' premium payments when calculating the rate at which overtime is paid, the defendant Port Authority has violated and is continuing to violate in a willful and intentional manner, the provisions of the FLSA. As a result, at all times material herein, the plaintiffs have been unlawfully deprived of overtime compensation and other relief for the maximum period allowed under the law.

15. As a result of the defendant's willful and purposeful violations of the FLSA, there have become due and owing to the plaintiffs an amount that has not yet been precisely determined. The employment and work records for the plaintiffs are in the exclusive possession, custody and control of defendant and its public agencies and the plaintiffs are unable to state at this time the exact amount owing to them. Defendant is under a duty imposed under the FLSA, 29 U.S.C. § 211(c), and various other statutory and regulatory provisions to maintain

and preserve payroll and other employment records with respect to the plaintiffs from which the amount of defendant's liability can be ascertained.

16. Pursuant to 29 U.S.C. § 216(b), plaintiffs are entitled to recover liquidated damages in an amount equal to their back pay damages for the defendant's failure to pay overtime compensation.

17. Plaintiffs are entitled to recover attorneys' fees and costs under 29 U.S.C. § 216(b).

WHEREFORE, the plaintiffs pray that this Court:

(a) Enter judgment declaring that the defendant has willfully and wrongfully violated its statutory obligations, and deprived each of the plaintiffs of his rights;

(b) Order a complete and accurate accounting of all the compensation to which the plaintiffs are entitled;

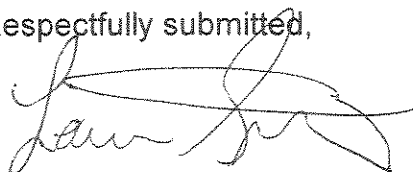
(c) Award plaintiffs monetary liquidated damages equal to their unpaid compensation;

(d) Award plaintiffs interest on their unpaid compensation;

(e) Award plaintiffs their reasonable attorneys fees to be paid by the defendant, and the costs and disbursements of this action; and

(f) Grant such other relief as may be just and proper.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Lauren Schwartzreich", written over a horizontal line.

Lauren Schwartzreich (LS-8260)
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